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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,065	03/04/2002	Anders Vinberg	063170.7028	8010
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BAKER BOTTS L.L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980			EXAMINER LEE, PHILIP C	
			ART UNIT 2152	PAPER NUMBER
			NOTIFICATION DATE 05/02/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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**Office Action Summary**

Application No.

10/091,065

Applicant(s)

VINBERG, ANDERS

Examiner

Philip C. Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 January 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-9,11,13-20,31 and 32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-9,11,13-20, 31 and 32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                            |                                                                                         |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                           | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

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1. This action is responsive to the amendment and remarks filed on January 18, 2007.
2. Claims 1, 3-9, 11, 13-20 and 31-32 are presented for examination and claims 2, 10 and 12 are canceled.
3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/18/07 has been entered.
4. The text of those sections of Title 35, U.S. code not included in this office action can be found in a prior office action.

*Claim Rejections – 35 USC 101*

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.
6. Claim 9 is rejected under 35 U.S.C. 101 because “A system” comprising means (i.e., software) does not include any functional structure of a system (i.e., apparatus). An system

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comprising means (i.e., software) is considered as program per se, which is not one of the categories of statutory subject matter.

*Claim Rejections – 35 USC 103*

7. Claims 1, 3-5, 9, 11 and 13-15 rejected under 35 U.S.C. 103(a) as being unpatentable over Touboul, U.S. Patent 6,125,390 (hereinafter Touboul) and Jacobs, U.S. Patent 5,761,502 (hereinafter Jacobs) in view of Dev et al, U.S. Patent 6,049,828 (hereinafter Dev).

8. Touboul, Dev, and Jacobs were cited in the last office action.

9. As per claims 1, 9 and 11, Touboul taught the invention substantially as claimed for reporting the context of an alert condition, comprising:

reporting an alert condition associated with a subject system object (col. 8, lines 10-12; col. 6, lines 54-61);

analyzing the system objects associated with the alert condition to obtain context data (col. 5, lines 7-10; col. 4, lines 39-44; col. 7, lines 40-49);

generating a context message based on the context data (col. 5, lines 7-10; col. 7, lines 40-49); and

outputting the context message (col. 8, lines 31-34; col. 14, lines 6-7, 20-23).

10. Touboul did not teach receiving, in response to the reporting of the alert condition, a user-generated dialogue request requesting context data. Dev taught receiving, in response to the reporting of the alert condition, a user-generated dialogue request requesting context data for the subject system object (col. 8, lines 31-37; col. 15, lines 12-29); and the context message responsive to the user-generated request dialogue (col. 8, lines 31-37; col. 15, lines 12-29). (dialogue request is interpreted as a user input requesting a machine response that form a “conversation”)

11. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Touboul and Dev because Dev’s teaching of a user-generated dialogue request would make it easier for user in Touboul’s system to request more information regarding an alarm condition.

12. Touboul and Dev do not teach context data for relevant system objects known to be associated with the subject system object and accessing a database to identify a group of system objects known to be associated with one another. Jacobs taught context data for the subject system object and one or more relevant system object known to be associated with the subject system object (col. 9, lines 48-54; col. 14, lines 46-52; fig. 6); accessing a database to identify a group of system objects known to be associated with one another (col. 8, lines 5-7; col. 9, lines 9-14, 24-37; col. 14, lines 11-19); and identifying, from the group of system objects, a relevant system object that is known to be associated with the subject system object (col. 9, lines 48-54; col. 13, lines 8-63; col. 14, lines 38-53).

13. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Touboul, Dev and Jacobs because Jacobs's teaching of accessing a database to identify a group of system object known to be associated with one another would increase the alertness of network management personnel in their systems by providing a view of the current state of the network that correlates related network events (col. 2, lines 29-65).

14. As per claims 3 and 13, Touboul, Dev and Jacobs taught the invention substantially as claimed in claims 1 and 11 above. Touboul further taught wherein the analyzing includes determining properties of the subject system object (col. 7, lines 40-49).

15. As per claims 4 and 14, Touboul, Dev and Jacobs taught the invention substantially as claimed in claims 1 and 11 above. Touboul further taught wherein analyzing includes determining a physical location of a component represented by the subject system object (col. 4, lines 39-44).

16. As per claims 5 and 15, Touboul, Dev and Jacobs taught the invention substantially as claimed in claims 1 and 11 above. Jacobs further taught wherein analyzing includes determining a logical relationship of a component represented by the subject system object to a component represented by the relevant system object (col. 13, lines 8-63; col. 14, lines 38-52).

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17. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Touboul, Dev and Jacobs for the same reason set forth in claim 1 above.

18. Claims 6 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Touboul, Dev and Jacobs in view of Cox, U.S. Patent 6,011,838 (hereinafter Cox).

19. Cox was cited in the last office action.

20. As per claims 6 and 16, Touboul, Dev and Jacobs taught the invention substantially as claimed in claims 1 and 11 above. Touboul, Dev and Jacobs did not teach determining a traffic load associated with the subject system object. Cox taught determining a traffic load associated with a system object (col. 3, lines 30-50).

21. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Touboul, Dev, Jacobs and Cox because Cox's teaching of determining a traffic load would increase the efficiency of Touboul's, Dev's and Jacobs's systems by minimize the amount of failure cause by overloading a system object (col. 1, lines 11-15).

22. Claims 7 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Touboul, Dev and Jacobs in view of Grace, U.S. Patent 5,748,098 (hereinafter Grace).

23. Grace was cited in the last office action.

24. As per claims 7 and 17, Touboul, Dev and Jacobs taught the invention substantially as claimed in claims 1 and 11 above. Touboul, Dev and Jacobs did not explicit teach a component that is dependent on a component represented by the subject system object. Grace taught wherein the relevant system object representing a component that is dependent on a component represented by the subject system object (col. 1, lines 40-56; col. 3, lines 5-15).

25. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Touboul, Dev, Jacobs and Grace because Grace's teaching of relevant system object representing a component that is dependent on a component represented by the subject system object would increase efficiency of Touboul's, Dev's and Jacobs's systems by avoiding time wasted on investigating the sources of all the alert condition associated with dependent resources (col. 1, lines 40-56).

26. Claims 8 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Touboul, Dev and Jacobs in view of Nishida, U.S. Patent 5,440,688 (hereinafter Nishida).

27. Nishida was cited in the last office action.



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28. As per claims 8 and 18, Touboul, Dev and Jacobs taught the invention substantially as claimed in claims 1 and 18 above. Touboul, Dev and Jacobs did not teach wherein generating includes replacing quantifiable context data with a qualitative identifier. Nishida taught a similar invention wherein generating includes replacing quantifiable context data with a qualitative identifier (col. 3, lines 29-40).

29. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Touboul, Dev, Jacobs and Nishida because Nishida's teaching of replacing quantifiable context data with a qualitative identifier would increase the user alertness in Touboul's, Dev's and Jacobs's systems by allowing alarm with critical level being at the highest in the range of emergencies demanding immediate attention by the network management personnel (col. 3, lines 36-38).

30. Claims 19-20 and 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Touboul, Dev and Jacobs in view of Fanshier et al, U.S. Patent 5,933,601 (hereinafter Fanshier).

31. Fanshier was cited in the last office action

32. As per claims 19 and 31, Touboul, Dev and Jacobs taught the invention substantially as claimed in claims 1 and 11 above. Touboul, Dev and Jacobs did not specifically detailing the relevant system object represents a sub-component of the subject system object. Fanshier taught

wherein the relevant system object represents a component that is a sub-component of a component represented by the subject system (fig. 3; col. 5, lines 15-41).

33. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Touboul, Dev, Jacobs and Fanshier because Fanshier's teaching of the relevant system object represents a component that is a sub-component of a component represented by the subject system would increase the alertness of Touboul's, Dev's and Jacobs's systems by providing the relationship of components using an object-based presentation of components executed by each of the nodes within a network in a hierarchy form (col. 1, lines 36-44).

34. As per claims 20 and 32, Touboul, Dev and Jacobs taught the invention substantially as claimed in claims 1 and 11 above. Touboul, Dev and Jacobs did not specifically detailing the relevant system object represents a grouping with the subject system object. Fanshier taught wherein the relevant system object represents a component that is in a grouping with a component represented by the subject system object (fig. 3; col. 5, lines 15-41).

35. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Touboul, Dev, Jacobs and Fanshier because Fanshier's teaching of the relevant system object represents a component that is in a grouping with a component represented by the subject system object would increase the alertness of Touboul's, Dev's and Jacobs's systems by providing the relationship of components using an object-based

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presentation of components executed by each of the nodes within a network in a hierarchy form (col. 1, lines 36-44).

36. Applicant's arguments filed 1/18/07 have been fully considered but they are not persuasive.

37. In the remarks, applicant argued that:

(1) Touboul-Jacobs-Dev combination does not teach “receiving, in response to the reporting of the alert condition, a user-generated dialogue request requesting context data for the subject system object and one or more relevant system objects known to be associated with the subject system object”

(2) No motivation, either in the cited references or in the knowledge generally available to one of ordinary skill in the art at the time of the invention to make the proposed combination of Touboul, Jacobs and Dev.

(3) The Touboul and Jacobs references are non-analogous.

(4) No motivation, either in the cited references or in the knowledge generally available to one of ordinary skill in the art at the time of the invention to make the proposed combination of Touboul, Jacobs and Cox.

(5) The combination of Touboul, Jacobs and Cox is improper because the references are non-analogous.

38. In response to point (1), Dev teaches receiving, in response to the reporting of the alert condition, a user-generated dialogue request requesting context data for the subject system object (col. 8, lines 31-37; col. 15, lines 12-29) (dialogue request is interpreted as a user input requesting a machine response that form a “conversation”). Dev teaches the limitation as claimed except context data for one or more relevant system objects known to be associated with the subject system object. Jacobs teaches context data for subject system object and one or more relevant system objects known to be associated with the subject system object (col. 9, lines 48-54; col. 14, lines 46-52; fig. 6). Evidently, the combination of Touboul-Jacobs-Dev combination does teach “receiving, in response to the reporting of the alert condition, a user-generated dialogue request requesting context data for the subject system object and one or more relevant system objects known to be associated with the subject system object”.

39. In response to point (2), in the office action mailed on 11/27/06, page 3, paragraph 8 and page 4, paragraph 10, motivations for combining the references of Touboul, Jacobs and Dev were provided. The cited paragraphs of the office action states: “It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Touboul and Jacobs because Jacobs's teaching of accessing a database to identify a group of system object known to be associated with one another would increase the alertness of network management personnel by providing a view of the current state of the network that correlates related network events (col.2, lines 29-65).” “It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Touboul, Jacobs, and Dev because Dev's teaching of a user-generated dialogue request would

make it easier for user in Touboul's and Jacobs' systems to request more information regarding an alarm condition.”

40. The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Jacobs's system provides management personnel with an integrated view of the current state of the network, that correlates related network events, and that recommends corrective action (col. 2, lines 29-65). Thus, one of ordinary skill in the art knows the management personnel's readiness to respond would increase with views of the current state of changes in a network, increasing the alertness of management personnel in the system. In addition, Dev's system provide user with more information regarding an alert message simply by pressing an appropriate button on the window display, thus making it easier for user to request information on the alarm condition.

41. In response to point (3), applicant's argument that Jacobs is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, both Touboul and Jacobs are

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directed to the same field, monitoring and reporting events in a network (see Touboul, col. 2, lines 26-29; see Jacobs, col. 5, lines 10-18; col. 9, lines 6-23).

42. In response to point (4), motivation for combining Touboul and Jacobs is stated in response to point (2) above. In addition, in the office action mailed on 11/27/06, page 5, paragraph 18, motivation for combining the references of Touboul, Jacobs and Cox was provided. "It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Touboul, Jacobs and Cox because Cox's teaching of determining a traffic load would increase the efficiency of Touboul's and Jacobs's systems by minimize the amount of failure cause by overloading a system object (col. 1, lines 11-15).

43. The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, one of ordinary skill in the art would know that overloading of a system object can be avoided by determining a traffic load associated with the system object. Accordingly, system failure caused by overloading is avoid, increasing the efficiency of the system.

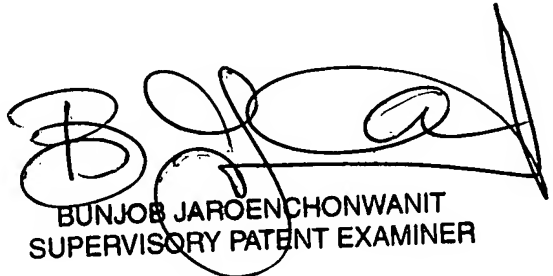
44. In response to point (5), applicant's argument that Jacobs is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be

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reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Cox's system pertinent to the problem of reporting the traffic load of a network condition which is a problem that the applicant was concerned (i.e. reporting of context of a condition).

45. A shortened statutory period for reply to this Office action is set to expire THREE MONTHS from the mailing date of this action. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip C Lee whose telephone number is (571)272-3967. The examiner can normally be reached on 8 AM TO 5:30 PM Monday to Thursday and every other Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on (571) 272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

P.L.



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SUPERVISORY PATENT EXAMINER